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10 Lead Counsel for Plaintiffs

11 [Additional counsel appear on signature page.]

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

14 CURTIS AND CHARLOTTE WESTLEY, ) No. C11-02448-EMC  
15 Individually and on Behalf of All Others ) and related consolidated action  
Similarly Situated, ) (Lead Case No. C11-3176-EMC)  
16 ) (Derivative Action)

Plaintiffs,

17 vs.

18 OCLARO, INC., et al.,

Defendants.

20 In re OCLARO, INC. DERIVATIVE  
21 LITIGATION

) Lead Case No. C11-3176-EMC  
(Derivative Action)

22 This Document Relates To:

23 Westley v. Oclaro, Inc., et al.,  
24 C11-02448-EMC.

26 STIPULATION AND [PROPOSED] ORDER CONTINUING CASE MANAGEMENT  
27 CONFERENCE AND EXTENDING DISCOVERY STAY

28

1           WHEREAS, on May 19, 2011, plaintiffs Curtis and Charlotte Westley filed a complaint  
 2 against defendants Oclaro, Inc., Alain Couder, Jerry Turin and James Haynes (Dkt. No. 1);

3           WHEREAS, on January 30, 2013, the Court entered a minute order, that *inter alia* limited  
 4 discovery to the issue of scienter with respect to certain statements and set a discovery cutoff, a  
 5 deadline for the filing of the Third Amended Complaint (“TAC”), briefing schedules in connection  
 6 with defendants’ motion to dismiss the TAC and defendants’ motion for summary judgment with  
 7 respect to scienter for the May and June statements, and an oral argument date for the motion for  
 8 summary judgment (Dkt. No. 111);

9           WHEREAS, on May 2, 2013, the Court approved the parties’ joint stipulation to stay all  
 10 proceedings and deadlines in this action, with the exception of proceedings related to the motion to  
 11 dismiss the TAC, until such time as the Court rendered a decision on defendants’ motion to dismiss  
 12 the TAC and modified the Court’s January 30, 2013 minute order to provide the following: (i) the  
 13 discovery cutoff shall be five weeks after the Court rules on defendants’ motion to dismiss the TAC;  
 14 (ii) defendants’ summary judgment motion shall be filed no later than 14 days after the discovery  
 15 cutoff; and (iii) a hearing on the motion shall be set for the first Thursday on which Judge Chen is  
 16 available, at 1:30 p.m., which is at least 35 days after the motion for summary judgment is filed (Dkt.  
 17 No. 153);

18           WHEREAS, on May 30, 2013, the Court issued an order granting defendants’ motion to  
 19 dismiss the TAC with prejudice as to the scienter allegations for alleged misrepresentations in July  
 20 and August 2010 (Dkt. No. 157);

21           WHEREAS, on June 17, 2013, the Court approved the parties’ joint stipulation to (i) keep the  
 22 Case Management Conference (“CMC”) on calendar, for July 18, 2013 at 10:30 a.m.; (ii) adjourn the  
 23 hearing on defendants’ motion for summary judgment; and (iii) continue the stay of all proceedings  
 24 and deadlines in this action, including discovery deadlines, until after the CMC and a schedule for  
 25 the remainder of the action is in place (Dkt. No. 160).

26           WHEREAS, the parties have met and conferred in good faith concerning the prospects for a  
 27 non-litigated resolution of this action, and have scheduled a mediation for August 27, 2013 before  
 28 the Honorable Layn R. Phillips (Ret.);

WHEREAS, the parties have agreed, subject to the Court's approval, to continue the CMC presently set for July 18, 2013 at 10:30 a.m., to September 12, 2013 at 10:30 a.m., or another date thereafter that is convenient to the Court;

4 WHEREAS, the parties have agreed, subject to the Court's approval, that the Joint CMC  
5 Statement shall be due one week prior to the date of the CMC;

WHEREAS, the parties have agreed, subject to the Court's approval, to continue the stay of all proceedings and deadlines in this action, including all discovery deadlines, until after the CMC is held, and a court-approved schedule for the remainder of the action is in place; and

9 WHEREAS, the parties enter this stipulation, not for the purposes of delay, but to efficiently  
10 manage this case going forward;

11 NOW THEREFORE, the undersigned parties, by and through their counsel of record,  
12 stipulate as follows:

13       1.     Subject to the Court's approval, the CMC, currently set for July 18, 2013 at 10:30  
14 a.m., shall be continued to September 12, 2013 at 10:30 a.m., or another date thereafter that is  
15 convenient for the Court.

16 || 2. The Joint CMC Statement shall be due one week prior to the CMC.

17       3. All proceedings and deadlines, including discovery deadlines, in this action are stayed  
18 until after the CMC is held and a court-approved schedule for the remainder of the action is in place.

20 | DATED: July 11, 2013

ROBBINS GELLER RUDMAN  
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s/ Shawn A. Williams  
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Additional Counsel for Plaintiff

DATED: July 11, 2013

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7 Attorneys for Defendants

8 **Certificate Pursuant to Local Rule 5-1(i)(3)**

9 I, Shawn A. Williams, am the ECF User whose identification and password are being used to  
10 file the STIPULATION AND [PROPOSED] ORDER CONTINUING CASE MANAGEMENT  
11 CONFERENCE AND EXTENDING DISCOVERY STAY. In compliance with Local Rule  
12 5-1(i)(3), I hereby attest that Gidon M. Caine has concurred in this filing.

13 Dated: July 11, 2013

14 \_\_\_\_\_ s/ Shawn A. Williams  
15 SHAWN A. WILLIAMS

16 \* \* \*

17 **O R D E R**

18 PURSUANT TO STIPULATION, IT IS SO ORDERED.

19 DATED: \_\_\_\_\_

20 \_\_\_\_\_ THE HONORABLE EDWARD M. CHEN  
21 UNITED STATES DISTRICT JUDGE

## CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2013, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 11, 2013.

s/ Shawn A. Williams  
SHAWN A. WILLIAMS

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## Mailing Information for a Case 3:11-cv-02448-EMC

### Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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### Manual Notice List

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